

AMENDED IN SENATE JUNE 17, 2014

AMENDED IN ASSEMBLY MAY 5, 2014

AMENDED IN ASSEMBLY APRIL 23, 2014

AMENDED IN ASSEMBLY MARCH 18, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 2605**

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**Introduced by Assembly Member Bonilla**

February 21, 2014

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An act to amend Sections ~~4022.5~~, 4040.5, 4043, ~~4053~~, 4060, 4081, 4101, 4105, 4120, 4126, 4149, 4160, 4161, 4162, 4162.5, 4164, 4165, 4166, 4167, 4168, 4169, 4201, 4305.5, 4312, 4331, and 4400 of, to amend the heading of Article 11 (commencing with Section 4160) of Chapter 9 of Division 2 of, to add ~~Section 4025.2~~ *Sections 4025.5, 4044.5, 4053.1, and 4107* to, and to repeal and add Section 4045 of, the Business and Professions Code, relating to pharmacy.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2605, as amended, Bonilla. Pharmacy: third-party logistics providers.

(1) Under the Pharmacy Law, a violation of which is a crime, the California State Board of Pharmacy licenses and regulates the practice of pharmacy. Existing law restricts the purchase, trade, sale, or transfer of dangerous drugs or dangerous devices, as defined, to licensed wholesalers and other authorized persons. Under the Pharmacy Law, the board licenses and regulates entities, including third-party logistics providers, as wholesalers. The Pharmacy Law defines a “third-party logistics provider” or a “reverse third-party logistics provider” as an

entity licensed as a wholesaler that contracts with a dangerous drug manufacturer to provide or coordinate warehousing, distribution, or other similar services on behalf of a manufacturer, but for which there is no change of ownership in the dangerous drugs. *Existing law requires a wholesaler to be supervised or managed by a designated representative-in-charge and requires a separate license for each place of business owned or operated by a wholesaler. Existing law also requires a wholesaler to submit a surety bond of \$100,000 payable to a specified fund of the board to secure payment of any administrative fine imposed by the board.* Existing law, the federal Drug Supply Chain Security Act, prohibits a third-party logistics provider, as defined, from conducting any activities in a state unless each facility of the provider is licensed by the state from which drugs are distributed by the provider in accordance with regulations to be promulgated by the Secretary of the United States Department of Health and Human Services.

This bill would revise the definition of *the terms* “third-party logistics provider” ~~or~~ and “reverse third-party logistics provider” to conform to federal law, as specified, and would require a third-party logistics provider of a dangerous drug or dangerous device to be separately licensed by the board as a third-party logistics provider. *The bill would require a third-party logistics provider to be supervised and managed by a facility manager-in-charge who would be subject to similar requirements as those imposed on a designated representative-in-charge with respect to wholesalers. The bill would limit a place of business to a single board-issued license and would require that at least one designated representative, in the case of a wholesaler, or facility manager, in the case of a third-party logistics provider, be present during business hours for each licensed place of business. The bill would require a third-party logistics provider to submit a surety bond of \$90,000 payable to a specified fund of the board to secure payment of any administrative fine imposed by the board.*

*The bill would also require a manufacturer, wholesaler, third-party logistics provider, or pharmacy that has reasonable cause to believe that a dangerous drug or device that is or was in its possession, and has been sold or distributed in or through California, is counterfeit or the subject of a fraudulent transaction to notify the board within 72 hours of obtaining that knowledge.*

(2) The Pharmacy Law requires a person located outside this state that ships, sells, mails, or delivers dangerous drugs or dangerous devices

into this state, or sells, brokers, or distributes dangerous drugs or devices within this state to be a licensed nonresident wholesaler.

This bill would, in addition, require a person located outside this state that performs those actions or that warehouses or distributes dangerous drugs or dangerous devices into this state, or warehouses dangerous drugs or devices within this state to be licensed as either a nonresident wholesaler or a nonresident third-party logistics provider. The bill would make conforming changes, and would delete obsolete cross-references and provisions.

(3) Existing law sets the fees for the issuance and renewal of licenses for wholesalers and designated representatives at specified amounts and authorizes those fees to be increased to specified higher amounts.

This bill would instead set the fees at the higher amounts.

(4) Because a violation of the requirements described in paragraphs (1) and (2) above would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 4022.5 of the Business and Professions~~  
2     ~~Code is amended to read:~~  
3     ~~4022.5. (a) "Designated representative" means an individual~~  
4     ~~to whom a license has been granted pursuant to Section 4053. A~~  
5     ~~pharmacist fulfilling the duties of Section 4053 shall not be~~  
6     ~~required to obtain a license as a designated representative.~~  
7     ~~(b) "Designated representative in charge" means a designated~~  
8     ~~representative or a pharmacist proposed by a wholesaler, third-party~~  
9     ~~logistics provider, or veterinary food-animal drug retailer and~~  
10    ~~approved by the board as the supervisor or manager responsible~~  
11    ~~for ensuring the compliance of the wholesaler, third-party logistics~~  
12    ~~provider, or veterinary food-animal drug retailer with all state and~~  
13    ~~federal laws and regulations pertaining to practice in the applicable~~  
14    ~~license category.~~

1 ~~SEC. 2. Section 4025.2 is added to the Business and Professions~~  
2 ~~Code, to read:~~

3 ~~4025.2. “Facility manager” means the individual who is~~  
4 ~~designated by a third-party logistics provider to oversee the facility~~  
5 ~~of the third-party logistics provider and who, in conjunction with~~  
6 ~~the quality assurance department of the third-party logistics~~  
7 ~~provider, is responsible for ensuring the third-party logistics~~  
8 ~~provider’s compliance with state and federal laws and the~~  
9 ~~third-party logistics provider’s customer specifications.~~

10 *SECTION 1. Section 4025.5 is added to the Business and*  
11 *Professions Code, to read:*

12 *4025.5. (a) “Facility manager” means an individual licensed*  
13 *by the board who oversees the operations of a third-party logistics*  
14 *provider with respect to dangerous drugs and dangerous devices*  
15 *received by, stored in, or shipped from the licensed place of*  
16 *business of the third-party logistics provider.*

17 *(b) “Facility manager-in-charge” means a facility manager*  
18 *licensed by the board who is designated by a third-party logistics*  
19 *provider and approved by the board pursuant to Section 4160 to*  
20 *oversee a licensed place of business of the third-party logistics*  
21 *provider. The facility manager-in-charge is responsible for*  
22 *ensuring the compliance of the licensed place of business with*  
23 *state and federal laws and with the third-party logistics provider’s*  
24 *customer specifications.*

25 ~~SEC. 3.~~

26 *SEC. 2. Section 4040.5 of the Business and Professions Code*  
27 *is amended to read:*

28 *4040.5. “Reverse distributor” means every person who acts as*  
29 *an agent for pharmacies, drug wholesalers, third-party logistics*  
30 *providers, manufacturers, and other entities by receiving,*  
31 *inventorying, warehousing, and managing the disposition of*  
32 *outdated or nonsaleable dangerous drugs.*

33 ~~SEC. 4.~~

34 *SEC. 3. Section 4043 of the Business and Professions Code is*  
35 *amended to read:*

36 *4043. “Wholesaler” means and includes a person who acts as*  
37 *a wholesale merchant, broker, jobber, customs broker, reverse*  
38 *distributor, agent, or a nonresident wholesaler, who sells for resale,*  
39 *or negotiates for distribution, or takes possession of, any drug or*  
40 *device included in Section 4022. Unless otherwise authorized by*

1 law, a wholesaler may not store, warehouse, or authorize the  
2 storage or warehousing of drugs with any person or at any location  
3 not licensed by the board.

4 SEC. 4. Section 4044.5 is added to the Business and Professions  
5 Code, to read:

6 4044.5. “Reverse third-party logistics provider” means an  
7 entity that processes or manages the disposition of an outdated or  
8 nonsaleable dangerous drug or dangerous device on behalf of a  
9 manufacturer, wholesaler, or dispenser of the dangerous drug or  
10 dangerous device, but does not take ownership of the dangerous  
11 drug or dangerous device nor have the responsibility to direct its  
12 sale or disposition. Unless otherwise specified in this chapter,  
13 every provision of this chapter that applies to a third-party logistics  
14 provider shall also apply to a reverse third-party logistics provider.

15 SEC. 5. Section 4045 of the Business and Professions Code is  
16 repealed.

17 SEC. 6. Section 4045 is added to the Business and Professions  
18 Code, to read:

19 4045. “Third-party logistics provider” or “reverse third-party  
20 logistic provider” means an entity that provides or coordinates  
21 warehousing or other logistics services of a product in for a  
22 dangerous drug or dangerous device in intrastate or interstate  
23 commerce on behalf of a manufacturer, wholesaler, or dispenser  
24 of a product the dangerous drug or dangerous device, but does  
25 not take ownership of the product dangerous drug or dangerous  
26 device, nor have responsibility to direct the its sale or disposition  
27 of the product.

28 SEC. 7. Section 4053 of the Business and Professions Code is  
29 amended to read:

30 4053. (a) Notwithstanding Section 4051, the board may issue  
31 a license as a designated representative to provide sufficient and  
32 qualified supervision in a wholesaler, third-party logistics provider,  
33 or veterinary food-animal drug retailer. The designated  
34 representative shall protect the public health and safety in the  
35 handling, storage, warehousing, distribution, and shipment of  
36 dangerous drugs and dangerous devices in the wholesaler,  
37 third-party logistics provider, or veterinary food-animal drug  
38 retailer.

39 (b) An individual who is at least 18 years of age may apply for  
40 a designated representative license. In order to obtain and maintain

1 ~~that license, the individual shall meet all of the following~~  
2 ~~requirements:~~

3 ~~(1) He or she shall be a high school graduate or possess a general~~  
4 ~~education development certificate equivalent.~~

5 ~~(2) He or she shall have a minimum of one year of paid work~~  
6 ~~experience in a licensed pharmacy, or with a drug wholesaler,~~  
7 ~~third-party logistics provider, drug distributor, or drug~~  
8 ~~manufacturer, in the past three years, related to the distribution or~~  
9 ~~dispensing of dangerous drugs or dangerous devices or meet all~~  
10 ~~of the prerequisites to take the examination required for licensure~~  
11 ~~as a pharmacist by the board.~~

12 ~~(3) He or she shall complete a training program approved by~~  
13 ~~the board that, at a minimum, addresses each of the following~~  
14 ~~subjects:~~

15 ~~(A) Knowledge and understanding of California law and federal~~  
16 ~~law relating to the distribution of dangerous drugs and dangerous~~  
17 ~~devices.~~

18 ~~(B) Knowledge and understanding of California law and federal~~  
19 ~~law relating to the distribution of controlled substances.~~

20 ~~(C) Knowledge and understanding of quality control systems.~~

21 ~~(D) Knowledge and understanding of the United States~~  
22 ~~Pharmacopoeia standards relating to the safe storage and handling~~  
23 ~~of drugs.~~

24 ~~(E) Knowledge and understanding of prescription terminology,~~  
25 ~~abbreviations, dosages, and format.~~

26 ~~(4) The board may, by regulation, require training programs to~~  
27 ~~include additional material.~~

28 ~~(5) The board shall not issue a license as a designated~~  
29 ~~representative until the applicant provides proof of completion of~~  
30 ~~the required training to the board.~~

31 ~~(e) The wholesaler, third-party logistics provider, or veterinary~~  
32 ~~food-animal drug retailer shall not operate without a pharmacist~~  
33 ~~or a designated representative on its premises.~~

34 ~~(d) Only a pharmacist or a designated representative shall~~  
35 ~~prepare and affix the label to veterinary food-animal drugs.~~

36 ~~(e) Section 4051 shall not apply to any laboratory licensed under~~  
37 ~~Section 351 of Title III of the Public Health Service Act (Public~~  
38 ~~Law 78-410).~~

39 *SEC. 7. Section 4053.1 is added to the Business and Professions*  
40 *Code, to read:*

1     4053.1. (a) Notwithstanding Section 4051, the board may issue  
2     a license to a qualified individual as a facility manager to provide  
3     sufficient and qualified supervision of a third-party logistics  
4     provider's place of business. The facility manager shall protect  
5     the public health and safety in the handling, storage, warehousing,  
6     distribution, and shipment of dangerous drugs and dangerous  
7     devices in the third-party logistics provider's place of business.

8     (b) An individual who is at least 18 years of age may apply for  
9     a facility manager license. In order to obtain and maintain that  
10    license, the individual shall meet all of the following requirements:

11    (1) He or she shall be a high school graduate or possess a  
12    general education development certificate equivalent.

13    (2) He or she shall meet one of the following requirements:

14    (A) Have a minimum of one year of paid work experience in the  
15    past three years with a third-party logistics provider.

16    (B) Have a minimum of one year of paid work experience in the  
17    past three years in a licensed pharmacy, or with a drug wholesaler;  
18    drug distributor, or drug manufacturer, performing duties related  
19    to the distribution or dispensing of dangerous drugs or dangerous  
20    devices.

21    (C) Meet all of the prerequisites to take the examination required  
22    for licensure as a pharmacist by the board.

23    (3) (A) He or she shall complete a training program approved  
24    by the board that, at a minimum, addresses each of the following  
25    subjects:

26    (i) Knowledge and understanding of California law and federal  
27    law relating to the distribution of dangerous drugs and dangerous  
28    devices.

29    (ii) Knowledge and understanding of California law and federal  
30    law relating to the distribution of controlled substances.

31    (iii) Knowledge and understanding of quality control systems.

32    (iv) Knowledge and understanding of the United States  
33    Pharmacopoeia standards relating to the safe storage, handling,  
34    and transport of dangerous drugs.

35    (B) The board may, by regulation, require the training program  
36    required under this paragraph to include additional material.

37    (C) The board shall not issue a license as a facility manager  
38    until the applicant provides proof of completion of the training  
39    required by this paragraph to the board.

1     (c) *A third-party logistics provider shall not operate without at*  
2     *least one facility manager present at each of its licensed places of*  
3     *business as required under Section 4160.*

4     SEC. 8. Section 4060 of the Business and Professions Code is  
5     amended to read:

6     4060. A person shall not possess any controlled substance,  
7     except that furnished to a person upon the prescription of a  
8     physician, dentist, podiatrist, optometrist, veterinarian, or  
9     naturopathic doctor pursuant to Section 3640.7, or furnished  
10    pursuant to a drug order issued by a certified nurse-midwife  
11    pursuant to Section 2746.51, a nurse practitioner pursuant to  
12    Section 2836.1, a physician assistant pursuant to Section 3502.1,  
13    a naturopathic doctor pursuant to Section 3640.5, or a pharmacist  
14    pursuant to Section 4052.1, 4052.2, or 4052.6. This section does  
15    not apply to the possession of any controlled substance by a  
16    manufacturer, wholesaler, third-party logistics provider, pharmacy,  
17    pharmacist, physician, podiatrist, dentist, optometrist, veterinarian,  
18    naturopathic doctor, certified nurse-midwife, nurse practitioner,  
19    or physician assistant, if in stock in containers correctly labeled  
20    with the name and address of the supplier or producer.

21    This section does not authorize a certified nurse-midwife, a nurse  
22    practitioner, a physician assistant, or a naturopathic doctor, to order  
23    his or her own stock of dangerous drugs and devices.

24    SEC. 9. Section 4081 of the Business and Professions Code is  
25    amended to read:

26    4081. (a) All records of manufacture and of sale, acquisition,  
27    or disposition of dangerous drugs or dangerous devices shall be  
28    at all times during business hours open to inspection by authorized  
29    officers of the law, and shall be preserved for at least three years  
30    from the date of making. A current inventory shall be kept by every  
31    manufacturer, wholesaler, third-party logistics provider, pharmacy,  
32    veterinary food-animal drug retailer, physician, dentist, podiatrist,  
33    veterinarian, laboratory, clinic, hospital, institution, or  
34    establishment holding a currently valid and unrevoked certificate,  
35    license, permit, registration, or exemption under Division 2  
36    (commencing with Section 1200) of the Health and Safety Code  
37    or under Part 4 (commencing with Section 16000) of Division 9  
38    of the Welfare and Institutions Code who maintains a stock of  
39    dangerous drugs or dangerous devices.



1 (b) The owner, officer, and partner of a pharmacy, wholesaler,  
2 third-party logistics provider, or veterinary food-animal drug  
3 retailer shall be jointly responsible, with the pharmacist-in-charge,  
4 *facility manager-in-charge*, or designated representative-in-charge,  
5 for maintaining the records and inventory described in this section.

6 (c) The pharmacist-in-charge, *facility manager-in-charge*, or  
7 designated representative-in-charge shall not be criminally  
8 responsible for acts of the owner, officer, partner, or employee  
9 that violate this section and of which the pharmacist-in-charge,  
10 *facility manager-in-charge*, or designated representative-in-charge  
11 had no knowledge, or in which he or she did not knowingly  
12 participate.

13 SEC. 10. Section 4101 of the Business and Professions Code  
14 is amended to read:

15 4101. (a) A pharmacist may take charge of and act as the  
16 pharmacist-in-charge of a pharmacy upon application by the  
17 pharmacy and approval by the board. ~~Any~~ A pharmacist-in-charge  
18 who ceases to act as the pharmacist-in-charge of the pharmacy  
19 shall notify the board in writing within 30 days of the date of that  
20 change in status.

21 (b) A designated representative or a pharmacist may take charge  
22 of, and act as, the designated representative-in-charge of a  
23 wholesaler, ~~third-party logistics provider~~, or veterinary food-animal  
24 drug retailer upon application by the wholesaler, ~~third-party~~  
25 ~~logistics provider~~, or veterinary food-animal drug retailer and  
26 approval by the board. ~~Any~~ A designated representative-in-charge  
27 who ceases to act as the designated representative-in-charge at that  
28 entity shall notify the board in writing within 30 days of the date  
29 of that change in status.

30 (c) *A facility manager may take charge of, and act as, the facility*  
31 *manager-in-charge of a third-party logistics provider upon*  
32 *application by the third-party logistics provider and approval by*  
33 *the board. A facility manager-in-charge who ceases to act as the*  
34 *facility manager-in-charge at that entity shall notify the board in*  
35 *writing within 30 days of the date of that change in status.*

36 SEC. 11. Section 4105 of the Business and Professions Code  
37 is amended to read:

38 4105. (a) All records or other documentation of the acquisition  
39 and disposition of dangerous drugs and dangerous devices by any

1 entity licensed by the board shall be retained on the licensed  
2 premises in a readily retrievable form.

3 (b) The licensee may remove the original records or  
4 documentation from the licensed premises on a temporary basis  
5 for license-related purposes. However, a duplicate set of those  
6 records or other documentation shall be retained on the licensed  
7 premises.

8 (c) The records required by this section shall be retained on the  
9 licensed premises for a period of three years from the date of  
10 making.

11 (d) (1) Any records that are maintained electronically shall be  
12 maintained so that the pharmacist-in-charge, *or* the pharmacist on  
13 duty if the pharmacist-in-charge is not on duty, ~~or, in the case of~~  
14 ~~a veterinary food-animal drug retailer, wholesaler, third-party~~  
15 ~~logistics provider, or the designated representative on duty,~~ shall,  
16 at all times during which the licensed premises are open for  
17 business, be able to produce a hardcopy and electronic copy of all  
18 records of acquisition or disposition or other drug or  
19 dispensing-related records maintained electronically.

20 (2) *In the case of a veterinary food-animal drug retailer,*  
21 *wholesaler, or third-party logistics provider, any records that are*  
22 *maintained electronically shall be maintained so that the*  
23 *designated representative-in-charge or the facility*  
24 *manager-in-charge, or the designated representative on duty or*  
25 *the facility manager on duty if the designated*  
26 *representative-in-charge or facility manager-in-charge is not on*  
27 *duty, shall, at all times during which the licensed place of business*  
28 *is open for business, be able to produce a hardcopy and electronic*  
29 *copy of all records of acquisition or disposition or other drug or*  
30 *dispensing-related records maintained electronically.*

31 (e) (1) Notwithstanding subdivisions (a), (b), and (c), the board;  
32 may, upon written request, grant to a licensee a waiver of the  
33 requirements that the records described in subdivisions (a), (b),  
34 and (c) be kept on the licensed premises.

35 (2) A waiver granted pursuant to this subdivision shall not affect  
36 the board's authority under this section or any other provision of  
37 this chapter.

38 (f) When requested by an authorized officer of the law or by an  
39 authorized representative of the board, the owner, corporate officer,  
40 or manager of an entity licensed by the board shall provide the

board with the requested records within three business days of the time the request was made. The entity may request in writing an extension of this timeframe for a period not to exceed 14 calendar days from the date the records were requested. A request for an extension of time is subject to the approval of the board. An extension shall be deemed approved if the board fails to deny the extension request within two business days of the time the extension request was made directly to the board.

*SEC. 12. Section 4107 is added to the Business and Professions Code, to read:*

*4107. If a manufacturer, wholesaler, third-party logistics provider, or pharmacy has reasonable cause to believe that a dangerous drug or dangerous device in, or having been in, its possession is counterfeit or the subject of a fraudulent transaction, the manufacturer, wholesaler, third-party logistics provider, or pharmacy shall notify the board within 72 hours of obtaining that knowledge. This section shall apply to any dangerous drug or dangerous device that has been sold or distributed in or through this state.*

~~SEC. 12.~~

*SEC. 13. Section 4120 of the Business and Professions Code is amended to read:*

4120. (a) A nonresident pharmacy shall not sell or distribute dangerous drugs or dangerous devices in this state through any person or media other than a wholesaler or third-party logistics provider who has obtained a license pursuant to this chapter or through a selling or distribution outlet that is licensed as a wholesaler or third-party logistics provider pursuant to this chapter without registering as a nonresident pharmacy.

(b) Applications for a nonresident pharmacy registration shall be made on a form furnished by the board. The board may require any information as the board deems reasonably necessary to carry out the purposes of this section.

(c) The Legislature, by enacting this section, does not intend a license issued to any nonresident pharmacy pursuant to this section to change or affect the tax liability imposed by Chapter 3 (commencing with Section 23501) of Part 11 of Division 2 of the Revenue and Taxation Code on any nonresident pharmacy.

(d) The Legislature, by enacting this section, does not intend a license issued to any nonresident pharmacy pursuant to this section

1 to serve as any evidence that the nonresident pharmacy is doing  
2 business within this state.

3 ~~SEC. 13.~~

4 *SEC. 14.* Section 4126 of the Business and Professions Code  
5 is amended to read:

6 4126. (a) Notwithstanding any other law, a covered entity may  
7 contract with a pharmacy to provide pharmacy services to patients  
8 of the covered entity, as defined in Section 256b of Title 42 of the  
9 United States Code, including dispensing preferentially priced  
10 drugs obtained pursuant to Section 256b of Title 42 of the United  
11 States Code. Contracts between those covered entities and  
12 pharmacies shall comply with guidelines published by the Health  
13 Resources and Services Administration and shall be available for  
14 inspection by board staff during normal business hours.

15 (b) Drugs purchased pursuant to Section 256b of Title 42 of the  
16 United States Code and received by a pharmacy shall be segregated  
17 from the pharmacy's other drug stock by either physical or  
18 electronic means. All records of acquisition and disposition of  
19 these drugs shall be readily retrievable in a form separate from the  
20 pharmacy's other records.

21 (c) Drugs obtained by a pharmacy to be dispensed to patients  
22 of a covered entity pursuant to Section 256b of Title 42 of the  
23 United States Code that cannot be distributed because of a change  
24 in circumstances for the covered entity or the pharmacy shall be  
25 returned to the distributor from which they were obtained. For the  
26 purposes of this section, a change in circumstances includes, but  
27 is not limited to, the termination or expiration of the contract  
28 between the pharmacy and the covered entity, the closure of a  
29 pharmacy, disciplinary action against the pharmacy, or closure of  
30 the covered entity.

31 (d) A licensee that participates in a contract to dispense  
32 preferentially priced drugs pursuant to this section shall not have  
33 both a pharmacy and a wholesaler license, or both a pharmacy and  
34 a third-party logistics provider license.

35 (e) Neither a covered entity nor a pharmacy shall be required  
36 to obtain a license as a wholesaler or a third-party logistics provider  
37 based on acts reasonably necessary to fully participate in the drug  
38 purchase program established by Section 256b of Title 42 of the  
39 United States Code.

~~SEC. 14.~~

SEC. 15. Section 4149 of the Business and Professions Code is amended to read:

4149. (a) A nonresident distributor shall not sell or distribute hypodermic needles or syringes in this state without obtaining a license from the board pursuant to Section 4141.

(b) Notwithstanding subdivision (a), a license is not required if the nonresident distributor sells or distributes solely through a person who is licensed as a wholesaler or third-party logistics provider pursuant to Section 4160.

(c) The Legislature, by enacting this section, does not intend a license issued to any nonresident distributor pursuant to this article to serve as evidence that the entity is doing business within this state.

~~SEC. 15.~~

SEC. 16. The heading of Article 11 (commencing with Section 4160) of Chapter 9 of Division 2 of the Business and Professions Code is amended to read:

Article 11. Wholesalers, Third-Party Logistics Providers, and  
Manufacturers

~~SEC. 16.~~

SEC. 17. Section 4160 of the Business and Professions Code is amended to read:

4160. (a) A person shall not act as a wholesaler or third-party logistics provider of any dangerous drug or dangerous device unless he or she has obtained a license from the board.

(b) Upon approval by the board and the payment of the required fee, the board shall issue a license to the applicant.

(c) A separate license shall be required for each place of business owned or operated by a wholesaler or third-party logistics provider. *Each place of business may only be issued a single license by the board.* Each license shall be renewed annually and shall not be transferable. *At all times during which a place of business is open for business, at least one designated representative, in the case of a wholesaler; or facility manager, in the case of a third-party logistics provider, shall be present.*

(d) Every wholesaler or third-party logistics provider shall be supervised or managed by a designated representative-in-charge.

1 The designated representative-in-charge shall be responsible for  
2 the ~~wholesaler's~~ compliance of the ~~wholesaler or third-party~~  
3 ~~logistics provider~~ with state and federal laws governing wholesalers  
4 ~~and third-party logistics providers~~. As part of its initial application  
5 for a license, and for each renewal, each ~~wholesaler or third-party~~  
6 ~~logistics provider~~ shall, on a form designed by the board, provide  
7 identifying information and the California license number for a  
8 designated representative or pharmacist proposed to serve as the  
9 designated representative-in-charge. The proposed designated  
10 representative-in-charge shall be subject to approval by the board.  
11 The board shall not issue or renew a ~~wholesaler or third-party~~  
12 ~~logistics provider~~ license without identification of an approved  
13 designated representative-in-charge for the ~~wholesaler or~~  
14 ~~third-party logistics provider~~.

15 *(e) Each place of business of a third-party logistics provider*  
16 *shall be supervised and managed by a facility manager-in-charge.*  
17 *The facility manager-in-charge shall be responsible for the*  
18 *compliance of the place of business with state and federal laws*  
19 *governing third-party logistics providers and with the third-party*  
20 *logistics provider's customer specifications. As part of its initial*  
21 *application for a license, and for each renewal, each third-party*  
22 *logistics provider shall, on a form designated by the board, provide*  
23 *identifying information and the California license number for a*  
24 *facility manager proposed to serve as the facility*  
25 *manager-in-charge. The proposed facility manager-in-charge*  
26 *shall be subject to approval by the board. The board shall not*  
27 *issue or renew a third-party logistics provider license without*  
28 *identification of an approved facility manager-in-charge for the*  
29 *third-party logistics provider.*

30 ~~(e)~~

31 *(f) A wholesaler or third-party logistics provider shall notify*  
32 *the board in writing, on a form designed by the board, within 30*  
33 *days of the date when a designated representative-in-charge ceases*  
34 *to act as the designated representative-in-charge, and shall on the*  
35 *same form propose another designated representative or pharmacist*  
36 *to take over as the designated representative-in-charge. The*  
37 *proposed replacement designated representative-in-charge shall*  
38 *be subject to approval by the board. If disapproved, the wholesaler*  
39 *or third-party logistics provider shall propose another replacement*  
40 *within 15 days of the date of disapproval, and shall continue to*

1 name proposed replacements until a designated  
2 representative-in-charge is approved by the board.

3 *(g) A third-party logistics provider shall notify the board in*  
4 *writing, on a form designed by the board, within 30 days of the*  
5 *date when a facility manager-in-charge ceases to act as the facility*  
6 *manager-in-charge, and shall on the same form propose another*  
7 *facility manager to take over as the facility manager-in-charge.*  
8 *The proposed replacement facility manager-in-charge shall be*  
9 *subject to approval by the board. If disapproved, the third-party*  
10 *logistics provider shall propose another replacement within 15*  
11 *days of the date of disapproval, and shall continue to name*  
12 *proposed replacements until a facility manager-in-charge is*  
13 *approved by the board.*

14 ~~(f)~~  
15 *(h) A drug manufacturer premises licensed by the Food and*  
16 *Drug Administration or licensed pursuant to Section 111615 of*  
17 *the Health and Safety Code that only distributes dangerous drugs*  
18 *and dangerous devices of its own manufacture is exempt from this*  
19 *section and Section 4161.*

20 ~~(g)~~  
21 *(i) The board may issue a temporary license, upon conditions*  
22 *and for periods of time as the board determines to be in the public*  
23 *interest. A temporary license fee shall be required in an amount*  
24 *established by the board as specified in subdivision (f) of Section*  
25 *4400. When needed to protect public safety, a temporary license*  
26 *may be issued for a period not to exceed 180 days, subject to terms*  
27 *and conditions that the board deems necessary. If the board*  
28 *determines that a temporary license was issued by mistake or denies*  
29 *the application for a permanent license, the temporary license shall*  
30 *terminate upon either personal service of the notice of termination*  
31 *upon the licenseholder or service by certified mail, return receipt*  
32 *requested, at the licenseholder's address of record with the board,*  
33 *whichever occurs first. Neither for purposes of retaining a*  
34 *temporary license, nor for purposes of any disciplinary or license*  
35 *denial proceeding before the board, shall the temporary*  
36 *licenseholder be deemed to have a vested property right or interest*  
37 *in the license.*

38 ~~SEC. 17.~~

39 *SEC. 18.* Section 4161 of the Business and Professions Code  
40 is amended to read:

1     4161. (a) A person located outside this state that (1) ships,  
2     sells, mails, warehouses, distributes, or delivers dangerous drugs  
3     or dangerous devices into this state or (2) sells, brokers,  
4     warehouses, or distributes dangerous drugs or devices within this  
5     state shall be considered a nonresident wholesaler or a nonresident  
6     third-party logistics provider.

7     (b) A nonresident wholesaler or nonresident third-party logistics  
8     provider shall be licensed by the board prior to shipping, selling,  
9     mailing, warehousing, distributing, or delivering dangerous drugs  
10    or dangerous devices to a site located in this state or selling,  
11    brokering, warehousing, or distributing dangerous drugs or devices  
12    within this state.

13    (c) A separate license shall be required for each place of business  
14    owned or operated by a nonresident wholesaler or nonresident  
15    third-party logistics provider from or through which dangerous  
16    drugs or dangerous devices are shipped, sold, mailed, warehoused,  
17    distributed, or delivered to a site located in this state or sold,  
18    brokered, warehoused, or distributed within this state. *Each place*  
19    *of business may only be issued a single license by the board.* A  
20    license shall be renewed annually and shall not be transferable.

21    (d) The following information shall be reported, in writing, to  
22    the board at the time of initial application for licensure by a  
23    nonresident wholesaler or a nonresident third-party logistics  
24    provider, on renewal of a nonresident wholesaler or nonresident  
25    third-party logistics provider license, or within 30 days of a change  
26    in that information:

27    (1) Its agent for service of process in this state.

28    (2) Its principal corporate officers, as specified by the board, if  
29    any.

30    (3) Its general partners, as specified by the board, if any.

31    (4) Its owners if the applicant is not a corporation or partnership.

32    (e) A report containing the information in subdivision (d) shall  
33    be made within 30 days of any change of ownership, office,  
34    corporate officer, or partner.

35    (f) A nonresident wholesaler or nonresident third-party logistics  
36    provider shall comply with all directions and requests for  
37    information from the regulatory or licensing agency of the state  
38    in which it is licensed, as well as with all requests for information  
39    made by the board.



(g) A nonresident wholesaler or nonresident third-party logistics provider shall maintain records of dangerous drugs and dangerous devices sold, traded, transferred, warehoused, or distributed to persons in this state or within this state, so that the records are in a readily retrievable form.

(h) A nonresident wholesaler or nonresident third-party logistics provider shall at all times maintain a valid, unexpired license, permit, or registration to conduct the business of the wholesaler or nonresident third-party logistics provider in compliance with the laws of the state in which it is a resident. An application for a nonresident wholesaler or nonresident third-party logistics provider license in this state shall include a license verification from the licensing authority in the applicant's state of residence.

(i) The board shall not issue or renew a nonresident wholesaler or nonresident third-party logistics provider license until the nonresident wholesaler or nonresident third-party logistics provider identifies a designated representative-in-charge *or facility manger-in-charge* and notifies the board in writing of the identity and license number of the designated representative-in-charge *or facility manager-in-charge*.

(j) The designated representative-in-charge shall be responsible for the compliance of the nonresident wholesaler ~~or nonresident third-party logistics provider~~ with state and federal laws governing wholesalers ~~and third-party logistics providers~~. *The facility manager-in-charge shall be responsible for the compliance of the nonresident third-party logistics provider's place of business with state and federal laws governing third-party logistics providers.* A nonresident wholesaler or nonresident third-party logistics provider shall identify and notify the board of a new designated representative-in-charge *or facility manager-in-charge* within 30 days of the date that the prior designated representative-in-charge *or facility manager-in-charge* ceases to be the designated representative-in-charge *or facility manager-in-charge*.

(k) The board may issue a temporary license, upon conditions and for periods of time as the board determines to be in the public interest. A temporary license fee shall be five hundred fifty dollars (\$550) or another amount established by the board not to exceed the annual fee for renewal of a license to compound injectable sterile drug products. When needed to protect public safety, a temporary license may be issued for a period not to exceed 180

1 days, subject to terms and conditions that the board deems  
2 necessary. If the board determines that a temporary license was  
3 issued by mistake or denies the application for a permanent license,  
4 the temporary license shall terminate upon either personal service  
5 of the notice of termination upon the licenseholder or service by  
6 certified mail, return receipt requested, at the licenseholder's  
7 address of record with the board, whichever occurs first. Neither  
8 for purposes of retaining a temporary license, nor for purposes of  
9 any disciplinary or license denial proceeding before the board,  
10 shall the temporary licenseholder be deemed to have a vested  
11 property right or interest in the license.

12 (l) The registration fee shall be the fee specified in subdivision  
13 (f) of Section 4400.

14 ~~SEC. 18:~~

15 *SEC. 19.* Section 4162 of the Business and Professions Code  
16 is amended to read:

17 4162. (a) (1) An applicant for the issuance or renewal of a  
18 wholesaler or third-party logistics provider license, which is not  
19 government owned and operated, shall submit a surety bond of  
20 one hundred thousand dollars (\$100,000) or other equivalent means  
21 of security acceptable to the board payable to the Pharmacy Board  
22 Contingent Fund. The purpose of the surety bond is to secure  
23 payment of any administrative fine imposed by the board and any  
24 cost recovery ordered pursuant to Section 125.3.

25 (2) *An applicant for the issuance or renewal of a third-party*  
26 *logistics provider license, which is not government owned and*  
27 *operated, shall submit a surety bond of ninety thousand dollars*  
28 *(\$90,000) or other equivalent means of security acceptable to the*  
29 *board payable to the Pharmacy Board Contingent Fund. The*  
30 *purpose of the surety bond is to secure payment of any*  
31 *administrative fine imposed by the board and any cost recovery*  
32 *ordered pursuant to Section 125.3.*

33 ~~(2)~~

34 (3) For purposes of ~~paragraph (1)~~ *paragraphs (1) and (2)*, the  
35 board may accept a surety bond less than ~~one hundred thousand~~  
36 ~~dollars (\$100,000)~~ *the amount required under paragraph (1) or*  
37 *(2) if the annual gross receipts of the previous tax year for the*  
38 *wholesaler or third-party logistics provider is ten million dollars*  
39 *(\$10,000,000) or less, in which case the surety bond shall be*  
40 *twenty-five thousand dollars (\$25,000).*

1     ~~(3)~~

2     (4) A person to whom an approved new drug application has  
3 been issued by the United States Food and Drug Administration  
4 who engages in the wholesale distribution of only the dangerous  
5 drug specified in the new drug application, and is licensed or  
6 applies for licensure as a wholesaler or third-party logistics  
7 provider, shall not be required to post a surety bond as provided  
8 in paragraph (1) *or* (2).

9     ~~(4)~~

10    (5) For licensees subject to paragraph ~~(2) or (3)~~, (3) *or* (4), the  
11 board may require a bond up to one hundred thousand dollars  
12 (\$100,000) for any licensee who has been disciplined by any state  
13 or federal agency or has been issued an administrative fine pursuant  
14 to this chapter.

15    (b) The board may make a claim against the bond if the licensee  
16 fails to pay a fine within 30 days after the order imposing the fine,  
17 or costs become final.

18    (c) A single surety bond or other equivalent means of security  
19 acceptable to the board shall satisfy the requirement of subdivision  
20 (a) for all licensed sites under common control as defined in  
21 Section 4126.5.

22    ~~SEC. 19.~~

23    ~~SEC. 20.~~ Section 4162.5 of the Business and Professions Code  
24 is amended to read:

25    4162.5. (a) (1) An applicant for the issuance or renewal of a  
26 nonresident wholesaler ~~or nonresident third-party logistics provider~~  
27 license shall submit a surety bond of one hundred thousand dollars  
28 (\$100,000), or other equivalent means of security acceptable to  
29 the board, such as an irrevocable letter of credit, or a deposit in a  
30 trust account or financial institution, payable to the Pharmacy  
31 Board Contingent Fund. The purpose of the surety bond is to secure  
32 payment of any administrative fine imposed by the board and any  
33 cost recovery ordered pursuant to Section 125.3.

34    (2) *An applicant for the issuance or renewal of a nonresident*  
35 *third-party logistics provider license shall submit a surety bond*  
36 *of ninety thousand dollars (\$90,000), or other equivalent means*  
37 *of security acceptable to the board, such as an irrevocable letter*  
38 *of credit, or a deposit in a trust account or financial institution,*  
39 *payable to the Pharmacy Board Contingent Fund. The purpose of*  
40 *the surety bond is to secure payment of any administrative fine*

1 *imposed by the board and any cost recovery ordered pursuant to*  
2 *Section 125.3.*

3 ~~(2)~~

4 (3) For purposes of ~~paragraph (1)~~ *paragraphs (1) and (2)*, the  
5 board may accept a surety bond less than ~~one hundred thousand~~  
6 ~~dollars (\$100,000)~~ *the amount required under paragraph (1) or*  
7 *(2) if the annual gross receipts of the previous tax year for the*  
8 *nonresident wholesaler or the nonresident third-party logistics*  
9 *provider is ten million dollars (\$10,000,000) or less, in which case*  
10 *the surety bond shall be twenty-five thousand dollars (\$25,000).*

11 ~~(3)~~

12 (4) For applicants who satisfy ~~paragraph (2);~~ (3), the board may  
13 require a bond up to one hundred thousand dollars (\$100,000) for  
14 any nonresident wholesaler or nonresident third-party logistics  
15 provider who has been disciplined by any state or federal agency  
16 or has been issued an administrative fine pursuant to this chapter.

17 ~~(4)~~

18 (5) A person to whom an approved new drug application or a  
19 biologics license application has been issued by the United States  
20 Food and Drug Administration who engages in the wholesale  
21 distribution of only the dangerous drug specified in the new drug  
22 application or biologics license application, and is licensed or  
23 applies for licensure as a nonresident wholesaler or a nonresident  
24 third-party logistics provider, shall not be required to post a surety  
25 bond as provided in this section.

26 (b) The board may make a claim against the bond if the licensee  
27 fails to pay a fine within 30 days of the issuance of the fine or  
28 when the costs become final.

29 (c) A single surety bond or other equivalent means of security  
30 acceptable to the board shall satisfy the requirement of subdivision  
31 (a) for all licensed sites under common control as defined in  
32 Section 4126.5.

33 ~~SEC. 20.~~

34 *SEC. 21.* Section 4164 of the Business and Professions Code  
35 is amended to read:

36 4164. (a) A wholesaler or third-party logistics provider licensed  
37 by the board that distributes controlled substances, dangerous  
38 drugs, or dangerous devices within or into this state shall report  
39 to the board all distributions of dangerous drugs and controlled  
40 substances that are subject to abuse, as determined by the board.

1 (b) Each wholesaler shall develop and maintain a system for  
2 tracking individual sales of dangerous drugs at preferential or  
3 contract prices to pharmacies that primarily or solely dispense  
4 prescription drugs to patients of long-term care facilities. The  
5 system shall be capable of identifying purchases of any dangerous  
6 drug at preferential or contract prices by customers that vary  
7 significantly from prior ordering patterns for the same customer,  
8 including by identifying purchases in the preceding 12 calendar  
9 months by that customer or similar customers and identifying  
10 current purchases that exceed prior purchases by either that  
11 customer or similar customers by a factor of 20 percent.

12 (c) Upon written, oral, or electronic request by the board, a  
13 wholesaler shall furnish data tracked pursuant to subdivision (b)  
14 to the board in written, hardcopy, or electronic form. The board  
15 shall specify the dangerous drugs, the customers, or both the  
16 dangerous drugs and customers for which data are to be furnished,  
17 and the wholesaler shall have 30 calendar days to comply with the  
18 request.

19 (d) As used in this section, “preferential or contract prices”  
20 means and refers to purchases by contract of dangerous drugs at  
21 prices below the market wholesale price for those drugs.

22 ~~SEC. 21.~~

23 *SEC. 22.* Section 4165 of the Business and Professions Code  
24 is amended to read:

25 4165. A wholesaler or third-party logistics provider licensed  
26 by the board who sells or transfers any dangerous drug or  
27 dangerous device into this state or who receives, by sale or  
28 otherwise, any dangerous drug or dangerous device from any  
29 person in this state shall, on request, furnish an authorized officer  
30 of the law with all records or other documentation of that sale or  
31 transfer.

32 ~~SEC. 22.~~

33 *SEC. 23.* Section 4166 of the Business and Professions Code  
34 is amended to read:

35 4166. (a) Any wholesaler that uses the services of any  
36 third-party logistics provider or carrier, including, but not limited  
37 to, the United States Postal Service or any common carrier, shall  
38 be liable for the security and integrity of any dangerous drugs or  
39 dangerous devices through that provider or carrier until the drugs

1 or devices are delivered to the transferee at its board-licensed  
2 premises.

3 (b) Nothing in this section is intended to affect the liability of  
4 a wholesaler, third-party logistics provider, or other distributor for  
5 dangerous drugs or dangerous devices after their delivery to the  
6 transferee.

7 ~~SEC. 23.~~

8 *SEC. 24.* Section 4167 of the Business and Professions Code  
9 is amended to read:

10 4167. A wholesaler or third-party logistics provider shall not  
11 obtain, by purchase or otherwise, any dangerous drugs or dangerous  
12 devices that it cannot maintain, in a secure manner, ~~on the premises~~  
13 *at the place of business* licensed by the board.

14 ~~SEC. 24.~~

15 *SEC. 25.* Section 4168 of the Business and Professions Code  
16 is amended to read:

17 4168. A county or municipality shall not issue a business  
18 license for any establishment that requires a wholesaler or  
19 third-party logistics provider license unless the establishment  
20 possesses a current wholesaler or third-party logistics provider  
21 license issued by the board. For purposes of this section, an  
22 “establishment” is the licensee’s physical location in California.

23 ~~SEC. 25.~~

24 *SEC. 26.* Section 4169 of the Business and Professions Code  
25 is amended to read:

26 4169. (a) A person or entity shall not do any of the following:

27 (1) Purchase, trade, sell, warehouse, distribute, or transfer  
28 dangerous drugs or dangerous devices at wholesale with a person  
29 or entity that is not licensed with the board as a wholesaler,  
30 third-party logistics provider, or pharmacy.

31 (2) Purchase, trade, sell, or transfer dangerous drugs that the  
32 person knew or reasonably should have known were adulterated,  
33 as set forth in Article 2 (commencing with Section 111250) of  
34 Chapter 6 of Part 5 of Division 104 of the Health and Safety Code.

35 (3) Purchase, trade, sell, or transfer dangerous drugs that the  
36 person knew or reasonably should have known were misbranded,  
37 as defined in Section 111335 of the Health and Safety Code.

38 (4) Purchase, trade, sell, or transfer dangerous drugs or  
39 dangerous devices after the beyond use date on the label.

1 (5) Fail to maintain records of the acquisition or disposition of  
2 dangerous drugs or dangerous devices for at least three years.

3 (b) Notwithstanding any other law, a violation of this section  
4 may subject the person or entity that has committed the violation  
5 to a fine not to exceed the amount specified in Section 125.9 for  
6 each occurrence, pursuant to a citation issued by the board.

7 (c) Amounts due from any person under this section shall be  
8 offset as provided under Section 12419.5 of the Government Code.  
9 Amounts received by the board under this section shall be deposited  
10 into the Pharmacy Board Contingent Fund.

11 (d) This section shall not apply to a pharmaceutical manufacturer  
12 licensed by the Food and Drug Administration or by the State  
13 Department of Public Health.

14 ~~SEC. 26:~~

15 *SEC. 27.* Section 4201 of the Business and Professions Code  
16 is amended to read:

17 4201. (a) Each application to conduct a pharmacy, wholesaler,  
18 third-party logistics provider, or veterinary food-animal drug  
19 retailer, shall be made on a form furnished by the board, and shall  
20 state the name, address, usual occupation, and professional  
21 qualifications, if any, of the applicant. If the applicant is other than  
22 a natural person, the application shall state the information as to  
23 each person beneficially interested therein.

24 (b) As used in this section, and subject to subdivision (c), the  
25 term “person beneficially interested” means and includes:

26 (1) If the applicant is a partnership or other unincorporated  
27 association, each partner or member.

28 (2) If the applicant is a corporation, each of its officers, directors,  
29 and stockholders, provided that no natural person shall be deemed  
30 to be beneficially interested in a nonprofit corporation.

31 (3) If the applicant is a limited liability company, each officer,  
32 manager, or member.

33 (c) If the applicant is a partnership or other unincorporated  
34 association, a limited liability company, or a corporation, and the  
35 number of partners, members, or stockholders, as the case may  
36 be, exceeds five, the application shall so state, and shall further  
37 state the information required by subdivision (a) as to each of the  
38 five partners, members, or stockholders who own the five largest  
39 interests in the applicant entity. Upon request by the executive  
40 officer, the applicant shall furnish the board with the information

1 required by subdivision (a) as to partners, members, or stockholders  
2 not named in the application, or shall refer the board to an  
3 appropriate source of that information.

4 (d) The application shall contain a statement to the effect that  
5 the applicant has not been convicted of a felony and has not  
6 violated any of the provisions of this chapter. If the applicant  
7 cannot make this statement, the application shall contain a  
8 statement of the violation, if any, or reasons which will prevent  
9 the applicant from being able to comply with the requirements  
10 with respect to the statement.

11 (e) Upon the approval of the application by the board and  
12 payment of the fee required by this chapter for each pharmacy,  
13 wholesaler, third-party logistics provider, or veterinary food-animal  
14 drug retailer, the executive officer of the board shall issue a license  
15 to conduct a pharmacy, wholesaler, third-party logistics provider,  
16 or veterinary food-animal drug retailer, if all of the provisions of  
17 this chapter have been complied with.

18 (f) Notwithstanding any other law, the pharmacy license shall  
19 authorize the holder to conduct a pharmacy. The license shall be  
20 renewed annually and shall not be transferable.

21 (g) Notwithstanding any other law, the wholesaler license shall  
22 authorize the holder to wholesale dangerous drugs and dangerous  
23 devices. The license shall be renewed annually and shall not be  
24 transferable.

25 (h) Notwithstanding any other law, the third-party logistics  
26 provider license shall authorize the holder to provide or coordinate  
27 warehousing, distribution, or other similar services of dangerous  
28 drugs and dangerous devices. The license shall be renewed annually  
29 and shall not be transferable.

30 (i) Notwithstanding any other law, the veterinary food-animal  
31 drug retailer license shall authorize the holder to conduct a  
32 veterinary food-animal drug retailer and to sell and dispense  
33 veterinary food-animal drugs as defined in Section 4042.

34 (j) For licenses referred to in subdivisions (f), (g), (h), and (i),  
35 any change in the proposed beneficial ownership interest shall be  
36 reported to the board within 30 days thereafter upon a form to be  
37 furnished by the board.

38 ~~SEC. 27.~~

39 *SEC. 28.* Section 4305.5 of the Business and Professions Code  
40 is amended to read:



1 4305.5. (a) A person that is licensed as a wholesaler,  
2 third-party logistics provider, or veterinary food-animal drug  
3 retailer, shall notify the board within 30 days of the termination  
4 of employment of the designated representative-in-charge *or*  
5 *facility manager-in-charge*. Failure to notify the board within the  
6 30-day period shall constitute grounds for disciplinary action.

7 (b) A person that is licensed as a wholesaler, third-party logistics  
8 provider, or veterinary food-animal drug retailer, that willfully  
9 fails to notify the board of the termination of employment of the  
10 designated representative-in-charge *or facility manager-in-charge*  
11 at its licensed place of business, and that continues to operate the  
12 place of business in the absence of the designated  
13 representative-in-charge *or facility manager-in-charge* for that  
14 place of business shall be subject to summary suspension or  
15 revocation of its license as a wholesaler, third-party logistics  
16 provider, or veterinary food-animal drug retailer at that place of  
17 business.

18 (c) A designated representative-in-charge of a wholesaler;  
19 ~~third-party logistics provider~~, or veterinary food-animal drug  
20 retailer, *or a facility manager-in-charge of a third-party logistics*  
21 *provider*, who terminates his or her employment at the licensed  
22 place of business, shall notify the board within 30 days of the  
23 termination of employment. Failure to notify the board within the  
24 30-day period shall constitute grounds for disciplinary action.

25 ~~SEC. 28.~~

26 *SEC. 29.* Section 4312 of the Business and Professions Code  
27 is amended to read:

28 4312. (a) The board may cancel the license of a wholesaler,  
29 third-party logistics provider, pharmacy, or veterinary food-animal  
30 drug retailer if the licensed premises remain closed, as defined in  
31 subdivision (e), other than by order of the board. For good cause  
32 shown, the board may cancel a license after a shorter period of  
33 closure. To cancel a license pursuant to this subdivision, the board  
34 shall make a diligent, good faith effort to give notice by personal  
35 service on the licensee. If a written objection is not received within  
36 10 days after personal service is made or a diligent, good faith  
37 effort to give notice by personal service on the licensee has failed,  
38 the board may cancel the license without the necessity of a hearing.  
39 If the licensee files a written objection, the board shall file an  
40 accusation based on the licensee remaining closed. Proceedings

1 shall be conducted in accordance with Chapter 5 (commencing  
2 with Section 11500) of Part 1 of Division 3 of Title 2 of the  
3 Government Code, and the board shall have all the powers granted  
4 in that chapter.

5 (b) If the license of a wholesaler, third-party logistics provider,  
6 pharmacy, or veterinary food-animal drug retailer is canceled  
7 pursuant to subdivision (a) or revoked pursuant to Article 19  
8 (commencing with Section 4300), or a wholesaler, third-party  
9 logistics provider, pharmacy, or veterinary food-animal drug  
10 retailer notifies the board of its intent to remain closed or to  
11 discontinue business, the licensee shall, within 10 days thereafter,  
12 arrange for the transfer of all dangerous drugs and controlled  
13 substances or dangerous devices to another licensee authorized to  
14 possess the dangerous drugs and controlled substances or dangerous  
15 devices. The licensee transferring the dangerous drugs and  
16 controlled substances or dangerous devices shall immediately  
17 confirm in writing to the board that the transfer has taken place.

18 (c) If a wholesaler, third-party logistics provider, pharmacy, or  
19 veterinary food-animal drug retailer fails to comply with  
20 subdivision (b), the board may seek and obtain an order from the  
21 superior court in the county in which the wholesaler, third-party  
22 logistics provider, pharmacy, or veterinary food-animal drug  
23 retailer is located, authorizing the board to enter the wholesaler,  
24 third-party logistics provider, pharmacy, or veterinary food-animal  
25 drug retailer and inventory and store, transfer, sell, or arrange for  
26 the sale of, all dangerous drugs and controlled substances and  
27 dangerous devices found in the wholesaler, third-party logistics  
28 provider, pharmacy, or veterinary food-animal drug retailer.

29 (d) If the board sells or arranges for the sale of any dangerous  
30 drugs, controlled substances, or dangerous devices pursuant to  
31 subdivision (c), the board may retain from the proceeds of the sale  
32 an amount equal to the cost to the board of obtaining and enforcing  
33 an order issued pursuant to subdivision (c), including the cost of  
34 disposing of the dangerous drugs, controlled substances, or  
35 dangerous devices. The remaining proceeds, if any, shall be  
36 returned to the licensee from whose premises the dangerous drugs  
37 or controlled substances or dangerous devices were removed.

38 (1) The licensee shall be notified of his or her right to the  
39 remaining proceeds by personal service or by certified mail,  
40 postage prepaid.

(2) If a statute or regulation requires the licensee to file with the board his or her address, and any change of address, the notice required by this subdivision may be sent by certified mail, postage prepaid, to the latest address on file with the board and service of notice in this manner shall be deemed completed on the 10th day after the mailing.

(3) If the licensee is notified as provided in this subdivision, and the licensee fails to contact the board for the remaining proceeds within 30 calendar days after personal service has been made or service by certified mail, postage prepaid, is deemed completed, the remaining proceeds shall be deposited by the board into the Pharmacy Board Contingent Fund. These deposits shall be deemed to have been received pursuant to Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure and shall be subject to claim or other disposition as provided in that chapter.

(e) For the purposes of this section, “closed” means not engaged in the ordinary activity for which a license has been issued for at least one day each calendar week during any 120-day period.

(f) Nothing in this section shall be construed as requiring a pharmacy to be open seven days a week.

~~SEC. 29.~~

*SEC. 30.* Section 4331 of the Business and Professions Code is amended to read:

4331. (a) A person who is neither a pharmacist nor a designated representative and who ~~does either of the following, takes charge of a wholesaler or veterinary food-animal drug retailer or who dispenses a prescription or furnishes dangerous devices,~~ except as otherwise provided in this chapter, is guilty of a ~~misdemeanor~~; *misdemeanor*.

~~(1) Takes charge of a wholesaler, third-party logistics provider, or veterinary food-animal drug retailer.~~

~~(2) Coordinates the warehousing or distribution of dangerous drugs or dangerous devices or dispenses a prescription or furnishes dangerous devices.~~

*(b) A person who is not a facility manager who takes charge of a third-party logistics provider or coordinates the warehousing or distribution of dangerous drugs or dangerous devices within a third-party logistics provider, except as otherwise provided in this chapter, is guilty of a misdemeanor.*

1     ~~(b)~~

2     (c) A person licensed as a veterinary food-animal drug retailer  
3 that fails to place in charge of that veterinary food-animal drug  
4 retailer a pharmacist or designated representative, or any person  
5 who, by himself or herself, or by any other person, permits the  
6 dispensing of prescriptions, except by a pharmacist or designated  
7 representative, or as otherwise provided in this chapter, is guilty  
8 of a misdemeanor.

9     ~~(e)~~

10    ~~(d)~~ A person licensed as a wholesaler or third-party logistics  
11 ~~provider~~ that fails to place in charge of that wholesaler or  
12 ~~third-party logistics provider~~ a pharmacist or designated  
13 representative, or any person who, by himself or herself, or by any  
14 other person, permits the furnishing of dangerous drugs or  
15 dangerous devices, except by a pharmacist or designated  
16 representative, or as otherwise provided in this chapter, is guilty  
17 of a misdemeanor.

18    ~~(e)~~ *A person licensed as a third-party logistics provider that*  
19 *fails to place in charge of a licensed place of business of the*  
20 *third-party logistics provider a facility manager, or any person*  
21 *who, by himself or herself, or by any other person, permits the*  
22 *furnishing of dangerous drugs or dangerous devices, except by a*  
23 *facility manager, or as otherwise provided in this chapter, is guilty*  
24 *of a misdemeanor.*

25    ~~SEC. 30.~~

26    ~~SEC. 31.~~ Section 4400 of the Business and Professions Code,  
27 as added by Section 9 of Chapter 565 of the Statutes of 2013, is  
28 amended to read:

29    4400. The amount of fees and penalties prescribed by this  
30 chapter, except as otherwise provided, is that fixed by the board  
31 according to the following schedule:

32    (a) The fee for a nongovernmental pharmacy license shall be  
33 four hundred dollars (\$400) and may be increased to five hundred  
34 twenty dollars (\$520). The fee for the issuance of a temporary  
35 nongovernmental pharmacy permit shall be two hundred fifty  
36 dollars (\$250) and may be increased to three hundred twenty-five  
37 dollars (\$325).

38    (b) The fee for a nongovernmental pharmacy license annual  
39 renewal shall be two hundred fifty dollars (\$250) and may be  
40 increased to three hundred twenty-five dollars (\$325).

1 (c) The fee for the pharmacist application and examination shall  
2 be two hundred dollars (\$200) and may be increased to two  
3 hundred sixty dollars (\$260).

4 (d) The fee for regrading an examination shall be ninety dollars  
5 (\$90) and may be increased to one hundred fifteen dollars (\$115).  
6 If an error in grading is found and the applicant passes the  
7 examination, the regrading fee shall be refunded.

8 (e) The fee for a pharmacist license and biennial renewal shall  
9 be one hundred fifty dollars (\$150) and may be increased to one  
10 hundred ninety-five dollars (\$195).

11 (f) The fee for a nongovernmental wholesaler or third-party  
12 logistics provider license and annual renewal shall be seven  
13 hundred eighty dollars (\$780) and may be decreased to no less  
14 than six hundred dollars (\$600). The application fee for any  
15 additional location after licensure of the first 20 locations shall be  
16 three hundred dollars (\$300) and may be decreased to no less than  
17 two hundred twenty-five dollars (\$225). A temporary license fee  
18 shall be seven hundred fifteen dollars (\$715) and may be decreased  
19 to no less than five hundred fifty dollars (\$550).

20 (g) The fee for a hypodermic license and renewal shall be one  
21 hundred twenty-five dollars (\$125) and may be increased to one  
22 hundred sixty-five dollars (\$165).

23 (h) (1) The fee for application, investigation, and issuance of  
24 a license as a designated representative pursuant to Section 4053,  
25 *or as a facility manager pursuant to Section 4053.I*, shall be three  
26 hundred thirty dollars (\$330) and may be decreased to no less than  
27 two hundred fifty-five dollars (\$255).

28 (2) The fee for the annual renewal of a license as a designated  
29 representative *or facility manager* shall be one hundred ninety-five  
30 dollars (\$195) and may be decreased to no less than one hundred  
31 fifty dollars (\$150).

32 (i) (1) The fee for the application, investigation, and issuance  
33 of a license as a designated representative for a veterinary  
34 food-animal drug retailer pursuant to Section 4053 shall be three  
35 hundred thirty dollars (\$330) and may be decreased to no less than  
36 two hundred fifty-five dollars (\$255).

37 (2) The fee for the annual renewal of a license as a designated  
38 representative for a veterinary food-animal drug retailer shall be  
39 one hundred ninety-five dollars (\$195) and may be decreased to  
40 no less than one hundred fifty dollars (\$150).

1 (j) (1) The application fee for a nonresident wholesaler or  
2 third-party logistics provider license issued pursuant to Section  
3 4161 shall be seven hundred eighty dollars (\$780) and may be  
4 decreased to no less than six hundred dollars (\$600).

5 (2) For nonresident wholesalers or third-party logistics providers  
6 that have 21 or more facilities operating nationwide the application  
7 fees for the first 20 locations shall be seven hundred eighty dollars  
8 (\$780) and may be decreased to no less than six hundred dollars  
9 (\$600). The application fee for any additional location after  
10 licensure of the first 20 locations shall be three hundred dollars  
11 (\$300) and may be decreased to no less than two hundred  
12 twenty-five dollars (\$225). A temporary license fee shall be seven  
13 hundred fifteen dollars (\$715) and may be decreased to no less  
14 than five hundred fifty dollars (\$550).

15 (3) The annual renewal fee for a nonresident wholesaler license  
16 or third-party logistics provider license issued pursuant to Section  
17 4161 shall be seven hundred eighty dollars (\$780) and may be  
18 decreased to no less than six hundred dollars (\$600).

19 (k) The fee for evaluation of continuing education courses for  
20 accreditation shall be set by the board at an amount not to exceed  
21 forty dollars (\$40) per course hour.

22 (l) The fee for an intern pharmacist license shall be ninety dollars  
23 (\$90) and may be increased to one hundred fifteen dollars (\$115).  
24 The fee for transfer of intern hours or verification of licensure to  
25 another state shall be twenty-five dollars (\$25) and may be  
26 increased to thirty dollars (\$30).

27 (m) The board may waive or refund the additional fee for the  
28 issuance of a license where the license is issued less than 45 days  
29 before the next regular renewal date.

30 (n) The fee for the reissuance of any license, or renewal thereof,  
31 that has been lost or destroyed or reissued due to a name change  
32 shall be thirty-five dollars (\$35) and may be increased to forty-five  
33 dollars (\$45).

34 (o) The fee for the reissuance of any license, or renewal thereof,  
35 that must be reissued because of a change in the information, shall  
36 be one hundred dollars (\$100) and may be increased to one hundred  
37 thirty dollars (\$130).

38 (p) It is the intent of the Legislature that, in setting fees pursuant  
39 to this section, the board shall seek to maintain a reserve in the

1 Pharmacy Board Contingent Fund equal to approximately one  
2 year's operating expenditures.

3 (q) The fee for any applicant for a nongovernmental clinic  
4 license shall be four hundred dollars (\$400) and may be increased  
5 to five hundred twenty dollars (\$520) for each license. The annual  
6 fee for renewal of the license shall be two hundred fifty dollars  
7 (\$250) and may be increased to three hundred twenty-five dollars  
8 (\$325) for each license.

9 (r) The fee for the issuance of a pharmacy technician license  
10 shall be eighty dollars (\$80) and may be increased to one hundred  
11 five dollars (\$105). The fee for renewal of a pharmacy technician  
12 license shall be one hundred dollars (\$100) and may be increased  
13 to one hundred thirty dollars (\$130).

14 (s) The fee for a veterinary food-animal drug retailer license  
15 shall be four hundred five dollars (\$405) and may be increased to  
16 four hundred twenty-five dollars (\$425). The annual renewal fee  
17 for a veterinary food-animal drug retailer license shall be two  
18 hundred fifty dollars (\$250) and may be increased to three hundred  
19 twenty-five dollars (\$325).

20 (t) The fee for issuance of a retired license pursuant to Section  
21 4200.5 shall be thirty-five dollars (\$35) and may be increased to  
22 forty-five dollars (\$45).

23 (u) The fee for issuance or renewal of a nongovernmental sterile  
24 compounding pharmacy license shall be six hundred dollars (\$600)  
25 and may be increased to seven hundred eighty dollars (\$780). The  
26 fee for a temporary license shall be five hundred fifty dollars (\$550)  
27 and may be increased to seven hundred fifteen dollars (\$715).

28 (v) The fee for the issuance or renewal of a nonresident sterile  
29 compounding pharmacy license shall be seven hundred eighty  
30 dollars (\$780). In addition to paying that application fee, the  
31 nonresident sterile compounding pharmacy shall deposit, when  
32 submitting the application, a reasonable amount, as determined by  
33 the board, necessary to cover the board's estimated cost of  
34 performing the inspection required by Section 4127.2. If the  
35 required deposit is not submitted with the application, the  
36 application shall be deemed to be incomplete. If the actual cost of  
37 the inspection exceeds the amount deposited, the board shall  
38 provide to the applicant a written invoice for the remaining amount  
39 and shall not take action on the application until the full amount  
40 has been paid to the board. If the amount deposited exceeds the

1 amount of actual and necessary costs incurred, the board shall  
2 remit the difference to the applicant.

3 (w) This section shall become operative on July 1, 2014.

4 ~~SEC. 31.~~

5 *SEC. 32.* No reimbursement is required by this act pursuant  
6 to Section 6 of Article XIII B of the California Constitution because  
7 the only costs that may be incurred by a local agency or school  
8 district will be incurred because this act creates a new crime or  
9 infraction, eliminates a crime or infraction, or changes the penalty  
10 for a crime or infraction, within the meaning of Section 17556 of  
11 the Government Code, or changes the definition of a crime within  
12 the meaning of Section 6 of Article XIII B of the California  
13 Constitution.